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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,168	02/24/2000	Xinguo Wei	AWS761.US; CING-136	5447
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EXAMINER				
HOM, SHICK C				
ART UNIT		PAPER NUMBER		
2416				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/511,168

Applicant(s)

WEI, XINGUO

Examiner

SHICK C. HOM

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2009 and 17 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 20-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-18 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The methods of managing and determining failure of a network element including steps of establishing a hierarchy of geographical areas, representing the element on a graphical user interface, and summarizing the representation at the second geographical hierarchy level is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example a person could mentally manage and determine failure of a network element by establishing a hierarchy of geographical areas in his mind, thinking of the elements graphically, visually monitoring status of the elements, verbally summarizing and sending an alarm of failure of the elements represented, and identifying the location of the failed elements as claimed.

In page 8 lines 7-12, applicant argued that by reciting a graphical user interface in claims 1, 15, and 18 ties the claims to a machine, or transform underlying subject matter (such as an article or material) to a different state or thing is not persuasive because a graphical user interface GUI is merely a term used to express the use of graphics to represent actual objects that the user can access and manipulate such as an icon and the step of representing each element graphically and monitoring the icon clearly do not tie the step of representing or monitoring in the method to any machine or transform any matter as argued.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. (2002/0113816).

Mitchell et al. disclose a method of managing network elements in a communications network comprising:

establishing a hierarchy of areas in the communication network, where an area at a higher level of the hierarchy includes a plurality of areas at a lower level of the hierarchy;

representing each network element in an area at a first level in the hierarchy on a graphical user interface; and

summarizing the representation of network elements at a second level in the hierarchy, higher than the first level of the hierarchy (the abstract recite providing a method and apparatus for presenting hierarchical data to a user via a graphical user interface; whereby hierarchical data is represented by nodes, beginning with one or more top nodes and extending into lower hierarchical levels by the display of child nodes, child's child nodes, and so forth and navigation through the hierarchical data is provided by allowing the user to select any visible node, at which point a zoom-in or zoom-out view to the selected node as a centrally located node on the interface is performed; child nodes at lower hierarchical levels that were not visible before selection are then made visible up to a predetermined number of levels within the hierarchy and a map is provided on the interface which allows a user to graphically comprehend the present location of all nodes displayed on the

interface in relation to their position within the overall hierarchy; wherein as applied to network management, the interface allows errors in low level devices within a network to be visually propagated up to the upper levels of the hierarchy, for display to a user viewing only the top levels clearly anticipate establishing the hierarchy of area in the communication network as in claims 1-2, 15, 18-19); further

Mitchell et al. disclose a method of determining the failure of a network element in a communications network comprising:

detecting a failure of one or more network elements;
sending an alarm to the higher level in the geographical hierarchy summarizing the failure of the one or more network elements; and
in response to the alarm, identifying and locating failed network elements at a lower level of the geographical hierarchy; including

representing at least one network element as an icon;
establishing a set of rules defining the meaning of the icon whereby the icon varies with respect to the status of the network element; and the use of coloration of the icon
(paragraphs 0063-0064 recite upon detecting that the file server suddenly loses access to one of its disks, the server signal

this failure condition via an exception to the remotely located network management application on the host; and upon receipt of this error condition, the network management software application alter the color of the node which represents the failed disk, as well as the color of node which represents the file server whereby the color alteration indicates that there is a problem with file server; whereby the network manager viewing the top level of the network at the time the error occurred, is configured to propagate the error condition up to the top level of the hierarchy by changing all data links leading to the lower level node to indicate an error condition; wherein the data links are highlighted or begin to flash on and off so that when the network administrator notices a data link that begins to flash to indicate an error, the network administrator can "drill down" into the hierarchy via the aforementioned zoom-in node selection process to reach that view which represents the device with error can be indicated in red and the network manager can then directly select this node, which will cause that node to be the centrally located node on display and then analyze the data displayed within the node on the GUI to determine the nature of the error with disk to either disable the faulted disk or to hot swap in a new disk clearly anticipate the method of determining the failure of a network element as in claims 3-4, 15-18, and

representing at least one network element as an icon; rules defining the icon; whereby the icon varies with respect to the status of the network element; and the use of coloration of the icon as in claims 5-9).

For claims 1-9 and 15-19, Mitchell et al. disclose all the subject matter of the claimed invention with the exception of the hierarchy established represents geographical area locations as argued.

Mitchell et al in paragraph 0006 recite the top level network interconnecting many smaller regional networks associated with specific buildings, cities, or geographical areas, whereby each of which represents a second level in the network hierarchy; each regional network interconnecting specific purpose departmental networks representing a third level in the network hierarchy; each departmental network including many individual subnetworks of computers, terminals, printers, file and web servers, and so forth to form the fourth level of the hierarchy, and so forth; and each computer and data communications device may then be considered on an individual basis as the fifth level in the hierarchy and may include various internal devices or peripherals which form a sixth hierarchical level. Although the location within the hierarchy of Mitchell is different than the geographical location recited

in the specification, namely a global location of a regional or national perspective; these limitations are not clearly recited in claims 1, 15, 18-19 and the location within the hierarchy of Mitchell clearly reads on the hierarchy of geographical area in the communication network as in claims 1, 15, 18-19).

Allowable Subject Matter

7. Claims 20-21 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
Rowles et al. disclose a network fault system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHICK C. HOM whose telephone number is (571)272-3173. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pham Chi can be reached on 571-272-3179. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chi H Pham/
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